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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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BRYAN DRYDEN,

Plaintiff,

v.

M. HUBBARD-PICKETT, *et al.*,

Defendants.

Case No. 2:20-cv-01730-GMN-NJK

ORDER

This action is a *pro se* civil rights action filed pursuant to 42 U.S.C. § 1983 by a prisoner in the custody of the Nevada Department of Corrections. On May 18, 2021, the Court issued an order dismissing the complaint with leave to amend some of the claims and directed Plaintiff to file any amended complaint within 30 days of that order. (ECF No. 3 at 14-15). The time period for filing an amended complaint has now expired, and Plaintiff has not filed an amended complaint or otherwise responded to the Court's order. District courts have the inherent power to control their dockets and "[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal" of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party's failure to prosecute an action, failure to obey a court order, or failure to comply with local rules. See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissal for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440-

1 41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring *pro se* plaintiffs  
2 to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130  
3 (9th Cir. 1987) (dismissal for failure to comply with court order); *Henderson v. Duncan*,  
4 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack of prosecution and failure to  
5 comply with local rules).

6 In determining whether to dismiss an action for lack of prosecution, failure to obey  
7 a court order, or failure to comply with local rules, the court must consider several factors:  
8 (1) the public's interest in expeditious resolution of litigation; (2) the court's need to  
9 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring  
10 disposition of cases on their merits; and (5) the availability of less drastic alternatives.  
11 *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at 130;  
12 *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

13 In the instant case, the Court finds that the first two factors, the public's interest in  
14 expeditiously resolving this litigation and the Court's interest in managing the docket,  
15 weigh in favor of dismissal. The third factor, risk of prejudice to Defendants, also weighs  
16 in favor of dismissal, since a presumption of injury arises from the occurrence of  
17 unreasonable delay in filing a pleading ordered by the court or prosecuting an action. See  
18 *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor – public policy  
19 favoring disposition of cases on their merits – is greatly outweighed by the factors in favor  
20 of dismissal discussed herein. Finally, a court's warning to a party that his failure to obey  
21 the court's order will result in dismissal satisfies the "consideration of alternatives"  
22 requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779  
23 F.2d at 1424. The Court's order requiring Plaintiff to file an amended complaint within  
24 thirty days expressly warned Plaintiff that this case would be dismissed if he failed to file  
25 a timely amended complaint. (ECF No. 3 at 15). Thus, Plaintiff had adequate warning  
26 that dismissal would result from his noncompliance with the Court's order to file an  
27 amended complaint within thirty days.

28 For the foregoing reasons, it is ordered that Plaintiff's application to proceed *in*

1 *forma pauperis* (ECF No. 1) without having to prepay the full filing fee is granted. Plaintiff  
2 shall not be required to pay an initial installment fee. Nevertheless, the full filing fee shall  
3 still be due, pursuant to 28 U.S.C. § 1915, as amended by the Prisoner Litigation Reform  
4 Act. The movant herein is permitted to maintain this action to conclusion without the  
5 necessity of prepayment of fees or costs or the giving of security therefor.

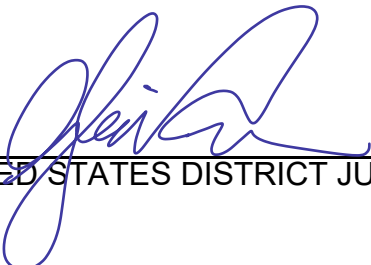
6 It is further ordered that, pursuant to 28 U.S.C. § 1915, as amended by the Prison  
7 Litigation Reform Act, the Nevada Department of Corrections will forward payments from  
8 the account of Bryan Dryden, # 1070536, to the Clerk of the United States District Court,  
9 District of Nevada, 20% of the preceding month's deposits (in months that the account  
10 exceeds \$10.00) until the full \$350 filing fee has been paid for this action. The Clerk of  
11 the Court will send a copy of this order to the Finance Division of the Clerk's Office. The  
12 Clerk will send a copy of this order to the attention of **Chief of Inmate Services for the**  
13 **Nevada Department of Corrections**, P.O. Box 7011, Carson City, NV 89702.

14 It is further ordered that, regardless of the success of Plaintiff's action, the full filing  
15 fee shall still be due, pursuant to 28 U.S.C. §1915, as amended by the Prisoner Litigation  
16 Reform Act.

17 It is further ordered that this action is dismissed with prejudice based on Plaintiff's  
18 failure to file an amended complaint in compliance with this Court's May 18, 2021 order  
19 and for failure to state a claim over which the Court may exercise jurisdiction.

20 It is further ordered that the Clerk of Court shall enter judgment accordingly and  
21 close this case.

22 DATED THIS 23 day of June 2021.

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25 UNITED STATES DISTRICT JUDGE  
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